

The particulars of the charges are as follows:

COUNT ONE

It is charged that in several criminal cases assigned to the Kings County Municipal Court you have improperly engaged in ex parte contact, provided litigants with legal advice, failed to recuse yourself or to disclose your personal relationships with litigants and previous activities to all parties, and intentionally made material misstatements of fact designed to mislead a party. Such misconduct is exemplified by, but not limited to, the following circumstances in these matters:

(a) In the matter of a felony criminal case charging one Miguel Meneses with conspiracy to purchase cocaine, you engaged in ex parte contact with him in the jail, provided him with legal advice there, failed to recuse yourself from his bail review matter, and before granting him an own recognizance release, both misrepresented the view of the arresting agency and failed to disclose your previous relationships and conduct in the matter, as follows:

(1) On March 6, 1993, Miguel Meneses was arrested by local narcotics officers on a charge of conspiracy to purchase cocaine. (Pen. Code, § 182.) Miguel Meneses was your gardener, to whom you owed approximately \$400 for previous services rendered. On the same day you went to the Corcoran Police Department, reviewed investigative reports in the matter, and signed a "probable cause" form in support of continued pretrial confinement.

(2) On or about March 7, 1993, you were approached at your home by Miguel Meneses' wife and asked for help. You thereupon arranged with the Corcoran Police Department for Mrs. Meneses to visit her husband and accompanied her to jail for that purpose. At the jail you spoke with Miguel Meneses himself and advised him not to speak about the incident with anyone, but rather to obtain the services of an attorney. You told a police officer that Meneses was your gardener, asked that officer about the validity of the charges that were pending, and informed him that you would be recusing yourself in the matter.

(3) Later, on March 7, 1993, you telephoned Corcoran police officer Ray Garcia, asked him about the case, and asked him three times if he opposed an own recognizance release for Miguel Meneses. He declined to answer but referred you to his supervisor, Sergeant David Frost. On March 8, 1993, Sergeant Frost went to your chambers and informed you that he opposed an own recognizance release.

(4) On March 9, 1993, Kings County Municipal Court Judge John O'Rourke arraigned Miguel Meneses on a felony complaint in People v. Meneses, King's County Municipal Court No. H0503652, and set bail at \$100,000.

(5) On March 11, 1993, you presided over a contested bail review hearing in People v. Meneses and related cases. You neither recused yourself nor disclosed your relationship and activities with Miguel Meneses and his wife. Upon taking the bench, you falsely stated that Corcoran police officer Ray Garcia did not oppose an own recognizance release for either

Miguel Meneses or a co-defendant. After the Kings County Probation Department recommended against either an own recognizance release or a bail reduction, and after the prosecutor argued for continuation of the \$100,000 bail, you ordered Meneses released without bail.

(b) On August 11, 1992, you borrowed \$4,500 from one Darlene Jones of Corcoran, California. (See Allegation II(c), infra.) The debt remains unpaid except for approximately \$750..

(1) On July 11, 1992, Darlene Jones' nephew, one Darren Powell, was arrested by Corcoran police officers for resisting arrest (Pen. Code, § 148) and possession of an open container in a vehicle (Veh. Code, § 23223). A subsequent prosecution was filed in the Kings County District Attorney's Office in People v. Darren Powell, Kings County Municipal Court No. C020505. Before presiding over this case in October, 1992, you were informed that the defendant was in fact Darlene Jones' nephew, and that he was facing charges in your court. You then commented to Darlene Jones that you would "take care of the matter" or words to that effect. On October 5, 1992, the matter was called for pretrial before you. You did not recuse yourself or advise any party of either your creditor or your social relationship with defendant's aunt or your prior discussions concerning the case. Defendant's counsel and the deputy district attorney assigned approached you with a proposed plea bargain wherein defendant would plead guilty to the resisting arrest charge, with no jail time involved in the disposition, and the open container violation would be dismissed. You

rejected the plea bargain arrangement reached by both sides, expressing concern about the effect of a record upon defendant's life, volunteering several defenses not raised by defense counsel, and questioning the deputy district attorney's legal judgment and experience in filing the charges. The matter was continued for further proceedings. On April 26, 1993, before Judge Ronald Maciel, the defendant entered into substantially the same plea bargain originally proposed.

(2) On or about Saturday, August 22, 1992, you were present with Darlene Jones inside her restaurant, Roy's Drive-In. On that date both Darlene Jones and you reportedly watched through a window as Kenneth Aaron Jones, Darlene Jones' nephew, and his girlfriend, Vicki Gamez, were arrested and cited for an alcohol-related misdemeanor. At the time, the pair were parked in a vehicle across the street from the restaurant. After the police appeared, Darlene Jones expressed concern about the pair "getting into trouble" with the law. You then assured Ms. Jones that you would "take care of the matter" and see that they received at most a community service sentence, possibly involving education at the local state prison, for these offenses.

On or about September 14, 1992, although you were a witness to the defendants' arrests, you failed to recuse yourself and instead presided over criminal proceedings in People v. Kenneth Aaron Jones, Kings County Municipal Court No. C020604A, and People v. Victoria Gamez, Kings County Municipal Court No. C020604B. On September 28, 1992, you again appeared on

these two matters and dismissed the Gamez case. No reason appears in the minutes of the court for the dismissal. On the same date, defendant Jones pleaded guilty, and you admitted him to probation on the condition that he complete the 'ROCK' program of education at the local state prison. At no time during these proceedings did you advise the parties of your relationship with Darlene Jones or of the fact that you were a percipient witness to the arrest and had previously discussed the matter.

(3) In July, 1993, when you still owed her money, Darlene Jones was cited by law enforcement and subsequently prosecuted for misdemeanor obstructing an officer (Pen. Code, § 148). (People v. Marilyn Darlene Jones, Kings County Municipal Court No. C000594.) In front of several witnesses, and while this matter was pending, you discussed the charge with Darlene Jones and advised her that there was no need to retain counsel, because you had spoken with the assigned judge, Judge Ronald Maciel, and that "the matter would be taken care of." The witnesses understood you to mean that you had approached Judge Maciel ex parte and asked him for leniency in her case. In fact, you did speak to Judge Maciel about the case.

#### COUNT TWO

It is charged that you have engaged in a continuing pattern of failing to report income or loans on your Statement of Economic Interests (Form 721) that are legally required to be

filed annually with the Fair Political Practices Commission. In that Statement, as declarant you are required to declare, under penalty of perjury, that you have "used all reasonable diligence in preparing this statement" and that you "have reviewed the statement and to the best of [your] knowledge the information contained herein and in the attached schedules is true and complete."

On December 11, 1989, you were publicly reprovved by this commission for your failure to report income in excess of \$75,000 on your Statements of Economic Interests. On August 13, 1990, you were privately admonished by this commission, again for your failure to file a complete Statement of Economic Interests, this time for omitting loans received from a court employee, Helen Cabell. Nonetheless, you have continued to fail to submit complete reports of your income or loans on your Statement of Economic Interests filed with the Fair Political Practices Commission. You have accordingly failed to conduct yourself with the integrity to be expected of a judicial officer. Such conduct is exemplified by, but not limited to, the following instances:

(a) On or about April 23, 1991, you borrowed some \$3,000 cash from Corcoran Police Department Lieutenant Russ Williams, which has not yet been repaid. (See Allegation III(d), infra.) You insisted to Williams that there be no promissory note or other written evidence of the loan. You have failed to report said loan on your Statement of Economic Interests.

(b) On or about December, 1991, you borrowed an aggregate amount of approximately \$10,410 from Hugh Osburn, which has not yet been repaid. (See Allegation III(b), infra.) You have failed to report said loans on your Statement of Economic Interests.

(c) On or about August 14, 1992, you borrowed some \$4,500, to be repaid within one year interest free, from one Darlene Jones of Corcoran, California. It is further reported that as of this date, the debt remains unpaid, except for approximately \$750. In addition, it is reported that from time to time you borrowed small sums in cash -- \$10 or \$20 -- which have not been repaid. These loans have never appeared on any Statement of Economic Interests filed by you since 1991.

(d) Beginning in calendar year 1991, you repeatedly borrowed money from one Koma Howard, a resident of Corcoran, California, and since that time, with Ms. Howard's permission, you have routinely and periodically billed her line of credit with I.D.S. and with Wells Fargo, for the education of your oldest daughter. The repayment arrangement you have made with Ms. Howard calls for you to repay her in the amount of \$200 each month. The current balance you have billed to Ms. Howard's credit line, and was due and owing as of March 22, 1994, is \$4,107.64. This loan or loans has never appeared on any Statement of Economic Interests filed by you since 1991.

(e) In May, 1991, you borrowed some \$9,000 from one Daisy Smith, a correctional officer assigned to the California State Prison at Corcoran. You initially approached Ms. Smith and



attempted to borrow a larger sum of money. After Ms. Smith agreed to loan you \$9,000, she provided 10 signed blank checks for your use to pay off certain creditors, and you later provided her with a written "IOU" as evidence of the obligation. This debt remains completely unpaid and has never appeared on any Statement of Economic Interests filed by you since 1991.

### COUNT THREE

It is charged that you have improperly exploited your judicial position by engaging in financial dealings with court staff and you have involved yourself, by obtaining loans or unpaid services, in continuing business relationships with individuals who appear before you. Such conduct is exemplified by, but not limited to, the following instances:

(a) On August 13, 1990, you were privately admonished by this commission for borrowing money from a court employee under your supervision, Helen Cabell. Nonetheless, on or about August 10, 1993, you again requested and received a loan of \$740, purportedly for the benefit of your daughter, from Helen Cabell.

(b) In December, 1991, you borrowed an aggregate sum of \$10,410 from Hugh Osburn, a debt which you have not repaid. (See Allegation II(b), supra.) Osburn and his business, Western Counties Insurance Brokers, frequently appear before the court on which you sit.

(c) Sometime before January 1, 1992, you borrowed approximately \$10,000 from Morris Proctor, a debt which you have not repaid. On May 24, 1992, you presided over criminal sentencing proceedings in which Proctor's son Jason was defendant. (Kings County Municipal Court No. C-00519.) You did not disqualify yourself nor did you disclose the debt to the defendant's father on the record or obtain a written waiver of disqualification from the parties.

(d) On or about April 23, 1991, you borrowed \$3,000 cash from Corcoran Police Department Lieutenant Russ Williams, which you have not repaid. (See Allegation II(b), supra.) You insisted to Williams that there be no promissory note or other written evidence of the loan. At that time, Williams was the liaison of the Corcoran Police Department with your court. He frequently filed papers in your court including criminal complaints signed by him. He also signed declarations for arrest warrants. You considered these declarations and issued the requested warrants. Examples include, but are not limited to:

People v. Montoya (No. CR 6821) -- complaint and declaration signed by Williams, March 6, 1991; arrest warrant signed by you March 11, 1991.

People v. Burkett (No. CR 6859) -- complaint signed by Williams, April 23, 1991.

People v. Aragon (No. CR 6860) -- complaint signed by Williams, April 23, 1991.

People v. Miranda (No. CR 6869) -- complaint and declaration signed by Williams, May 3, 1991.

(e) On or about March 11, 1993, in People v. Meneses, No. H0503652, a bail review hearing in a felony criminal matter, you ordered the defendant released on his own recognizance. You owed and continue to owe Meneses approximately \$400 for gardening services previously rendered. You did not recuse yourself nor did you disclose your personal business relationship with Meneses to the parties. (See Allegation I, supra.)

#### COUNT FOUR

You have deliberately made false statements in a declaration filed under penalty of perjury in a bankruptcy matter before the federal court, thus failing to act in a manner that promotes confidence in the integrity of the judiciary. On June 29, 1993, you filed a voluntary bankruptcy petition in the United States Bankruptcy Court of the Eastern District of California. (No. 93-13467-7K.) You were required by law (18 U.S.C. § 152) to list all property, creditors, and debts. On June 28, 1993, you declared under penalty of perjury

"that I have read the foregoing summary and schedules, consisting of 25 sheets, and that they are true and correct to the best of my knowledge, information, and belief."

On the same day you also declared under penalty of perjury that the appended "Creditor Matrix" was complete and correct. These declarations were intentionally incomplete and false. Fabrie Jewelers, Russ Williams, Hugh Osburn, Dorothy McDonald, Morris Proctor, Darlene Jones, Koma Howard, Daisy Smith, and Joy and Ted Ewalt are creditors who do not appear in the bankruptcy Schedules or Creditor Matrix.

#### COUNT FIVE

It is charged that during your tenure as a municipal court judge, you have persistently failed to diligently perform judicial duties assigned, in that you are habitually late for court. You rarely begin court calendars on time, and frequently begin morning and afternoon court sessions 30 minutes to 1 hour late. Your pattern of chronic tardiness has adversely affected the functioning of the Kings County Municipal Court and the operations of those parties who must utilize it. This pattern has persisted despite repeated expressions of concern by law enforcement, the county administrative officer, the court executive officer, and another member of your bench. Examples include, but are not limited to, your appearances in the Kings County Municipal Court during the first quarter of 1993, when morning calendars were scheduled to begin at 9:00 a.m. and afternoon calendars were scheduled to commence at 1:30 p.m. It

is alleged that you began your judicial duties by first taking the bench for morning and afternoon calendars during that period, on the following dates at the following times:

<u>DATE</u>	<u>COURT</u>	<u>A.M. Calendar</u>	<u>P.M. Calendar</u>
1/11/93	Corcoran	11:12 a.m.	
1/12/93	Lemoore	9:48 a.m.	
1/15/93	Hanford		3:25 p.m.
1/20/93	Corcoran	9:52 a.m.	
1/21/93	Hanford	9:57 a.m.	
1/26/93	Corcoran	10:12 a.m.	
1/26/93	Hanford		2:00 p.m.
1/27/93	Corcoran	10:21 a.m.	
1/28/93	Hanford	9:48 a.m.	2:07 p.m.
1/29/93	Lemoore	11:04 a.m.	
2/3/93	Corcoran	9:38 a.m.	
2/8/93	Corcoran	9:59 a.m.	2:03 p.m.
2/9/93	Corcoran	11:08 a.m.	
2/9/93	Hanford		2:34 p.m.
2/10/93	Corcoran	10:09 a.m.	3:29 p.m.
2/11/93	Hanford	9:32 a.m.	2:05 p.m.
2/16/93	Hanford	9:18 a.m.	2:01 p.m.
2/17/93	Corcoran	10:45 a.m.	
2/18/93	Hanford	9:25 a.m.	2:01 p.m.
2/19/93	Hanford	9:29 a.m.	
2/22/93	Corcoran	9:34 a.m.	
2/23/93	Hanford	9:53 a.m.	
2/24/93	Corcoran	10:48 a.m.	
2/25/93	Hanford	9:33 a.m.	
2/26/93	Hanford	9:36 a.m.	4:06 p.m.
3/1/93	Corcoran	10:15 a.m.	2:12 p.m.
3/2/93	Hanford	9:31 a.m.	2:48 p.m.
3/4/93	Hanford	9:33 a.m.	2:03 p.m.
3/5/93	Hanford	9:29 a.m.	
3/8/93	Corcoran	10:03 a.m.	2:37 p.m.
3/10/93	Corcoran	10:09 a.m.	
3/11/93	Hanford	9:26 a.m.	3:36 p.m.
3/12/93	Hanford	9:49 a.m.	
3/15/93	Corcoran	10:50 a.m.	2:05 p.m.
3/16/93	Hanford	9:48 a.m.	2:02 p.m.
3/18/93	Hanford	10:14 a.m.	2:58 p.m.
3/19/93	Hanford	9:34 a.m.	
3/22/93	Corcoran	9:48 a.m.	
3/24/93	Corcoran	10:10 a.m.	4:13 p.m.
3/26/93	Hanford		2:22 p.m.
3/29/93	Corcoran	9:54 a.m.	2:16 p.m.
3/31/93	Hanford		3:48 p.m.

COUNT SIX

It is charged that, in a federal criminal case, you offered to provide legal services on behalf of a prisoner.

Darlene Jones' husband Rodney is currently in custody following his conviction for federal felony narcotics trafficking offenses. At some time after obtaining the aforesaid loan from Darlene Jones, you indicated to her and others that you could not repay the loan and would instead "work off" the debt by providing her with legal assistance, specifically, by helping to prepare a petition for federal habeas corpus relief on behalf of her incarcerated husband, Rodney Jones. You also indicated your intent to have other counsel sign the petition, although it was to be prepared by you, because for you to sign the pleadings in such a matter would be "illegal." Pursuant to the promise, you asked for and received legal papers and transcripts pertinent to Rodney Jones' case. Furthermore, as a part of this promise to provide sub rosa legal representation for Rodney Jones, in the spring of 1993, Darlene Jones, Jimmie Jones, and you travelled to an Arizona federal correctional institution, where you identified yourself to correctional authorities as a judge and then visited with inmate Rodney Jones. During this time period, in the presence of several witnesses, you repeatedly stated that you would have Rodney Jones "out of prison by Christmas," 1993.

COUNT SEVEN

It is charged that, in the preliminary investigation of the Commission on Judicial Performance, you asked material witnesses not to cooperate with commission investigators and not to cooperate with commission investigatory procedures, as follows:

On several occasions in February and March, 1994, you asked Darlene Jones and one Koma Howard not to discuss the unreported loans which are the subject of Count One, subparagraph (b) with investigators for this commission and not to cooperate with its investigatory procedures.

\* \* \* \* \*

It is asserted that your conduct as charged in this notice constitutes wilful misconduct in office, persistent failure or inability to perform judicial duties, and conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of California Constitution, article VI, section 18, subdivision (c).

The filing and service of this amended notice does not foreclose the Commission on Judicial Performance from bringing additional charges against you at a later date by amendment.

You have the right to file a written answer to the charges against you within fifteen days after service of this notice upon you. The answer must be filed with the Commission on

Judicial Performance, 101 Howard Street, Suite 300, San Francisco, California, 94105. The answer must be verified, must conform in style to California Rules of Court, rule 15, subdivision (c), and must consist of an original and eleven (11) legible copies.

BY ORDER OF THE COMMISSION ON JUDICIAL PERFORMANCE

DATED: \_\_\_\_\_

*July 6, 1994*

*Eugene M. Premo*  
CHAIRPERSON